

TORT LAW EXAM 2025 QUESTIONS AND ANSWERS

Case example for proprietary interests - legal standing - ANS **Malone v Laskey [1907]** A woman was injured while using the toilet when its cistern fell on top of her. It had been dislodged by vibrations emanating from the electricity generator on the neighbouring defendant's property. CoA held that she had no cause of action in nuisance against the defendant, because she had no proprietary interest in the premises - the house belonged to her husband's employer. She was 'merely present in the house'.

Key case for But for Test - ANS **Barnett v Chelsea and Kensington Hospital Management Committee [1969]** - Doctor failed to properly examine a man in a&e department. It transpired that the man was suffering from arsenic poisoning from which he subsequently died. The Doctor admitted negligence but said he had not caused the man's death. It could not be said that 'but for' the doctor's negligence the man would have survived. Court held as the doctor's negligence was not a necessary condition for the man's death, he could not be held liable for it.

Case that the but for test doesn't work - ANS **Wilsher v Essex Area Health Authority [1988]** - After difficult delivery, baby was mistakenly given too much oxygen by the doctor. The baby suffered injury, resulting in blindness. There were also 5 other factors for babies' blindness - C was unable to prove on a balance of probabilities that the excess oxygen had been the cause of his blindness. Courts applied but for test and found Causation was not established. Too many factors for the courts to determine whether the defendant was liable.

Key case for material contribution - ANS **Bonnington Castings V Wardlaw [1956]** - A factory employee contracted pneumoconiosis, a lung condition, from the inhalation of silica dust. He sued his employer in negligence. Some dust inhalation was an inevitable consequence of the work being done. HoL found that there was a higher level of dust in the air than there should have been, due to the employer's negligence in not adequately ventilating the factory. The question was, then, whether the 'guilty' dust made any difference to the claimant's chances of contracting the disease. Couldn't be established exactly at what point the disease occurred. The

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Edward J. Kionka



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